

## REMARKS

Claims 1-5, 7-16 and 18-27 are pending in the application. Claims 1 and 13 have been amended, claims 24-27 have been added and claims 6 and 17 have been canceled by the foregoing amendment. The subject matter of canceled claim 6 has been incorporated into amended independent claim 1 and that of canceled claim 17 has been incorporated into amended independent claim 13.

The title of the invention is deemed as being non-descriptive and imprecise. Applicants respectfully submit that the title accurately reflects the invention as defined by the amended claims.

In the Office Action of July 30, 2002, claims 1-5, 10-16 and 21-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,366,575 (Barkan et al.) in view of U.S. Patent No. 6,011,844 (Uppaluru et al.). Claims 6-9 and 17-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barkan and Uppaluru and further in view of U.S. Patent No. RE 37,001 (Morganstein et al.). Applicants respectfully traverse these rejections for the following reasons.

The rejection of canceled claims 6 and 17 will be addressed as the subject matter of these claims has been incorporated into amended independent claims 1 and 13.

Applicants have provided a novel method and apparatus for setting up a call between a subscriber premises and a call center. As recited in amended claim 1, for example, the method includes receiving a call set up request from a gateway that is responsive to the subscriber premises. The gateway is connected to the subscriber

premises via a data network such as the Internet. A query to the call center is sent. If the call center is available, an availability reply is received from the call center and a call set up instruction for setting up the call between the premises and the call center is prepared. If the call center is not available, an unavailability reply is received from the call center, a time-in-queue is estimated within which the call center will be available to receive the call and a call queue status message is prepared for delivery to the gateway.

As described by Applicants, in an exemplary embodiment, the gateway may also function as an Internet web site for providing "click-to-dial" service in which a user initiates a telephone call by clicking on a location (or a link) of a web page supplied by the gateway (Specification, p. 8, lines 20 to 22). The gateway translates a user's mouse clicks (such as clicking on a location or a link) into a call set up request (p. 9, lines 1 to 2). The call queue status message may include both an approximate time-in-queue value (i.e., approximate wait time) for being connected to an agent at a call center as well as a caller's position in a queue (p. 13, l. 18 to p. 14, l. 3 and p. 14, l. 19 to p. 15, l. 3). Furthermore, if an agent at a call center is unavailable in Applicants' invention and the call is placed in a queue, a telephone is not used until an agent is available (p. 16, l. 22 to p. 17, l. 2).

Barkan describes a system and method for facilitating communication between a user and an agent where a user requests connection to an agent. If an agent is not available in Barkan, the call is placed in a queue (col. 5, lines 55-58). When an agent becomes available, the telephone number of the agent as well as a bid time is transmitted

to the user. The bid time represents a time period (such as two minutes) during which the agent will be available to receive a call from the user at the provided number (col. 5, l. 58 to col. 6, l. 4). The user wishing to communicate with the agent has to dial the telephone number of the agent within the bid time.

Existing systems do not necessarily assign individual telephone numbers to agents. Therefore, in order to implement the method of Barkan, a modification may be necessary for assigning individual phone numbers to agents. Applicants' invention may be implemented in existing systems without any modifications (Specification, p. 7, lines 18 and 19). In order to complete a call, a user in Barkan has to indicate an intention to make a call by clicking a "connect-to-agent" button for example (a first action) and if the agent is busy, the user has to dial a number provided to connect to the available agent (a second action). In Applicants' invention, on the other hand, no follow-up action is required of the user. Barkan fails to disclose Applicants' invention as claimed.

In addition, as recognized by the Examiner, Barkan fails to teach or disclose the use of a gateway. The Uppaluru patent is relied upon for disclosing the use of a gateway. The gateway of Uppaluru, however, differs from that of Applicants' invention. The gateway of Uppaluru is part of the telephone network while that of Applicants' invention is outside the telephone network. Unlike Applicants' invention, the gateway of Uppaluru does not translate user clicks of a mouse into a call set up request. The gateway (of Uppaluru) is not connected to the subscriber premises via a data network. The gateway of Uppaluru also holds

and queues calls until operators are available to service a call and plays music or customized announcements to the caller while the call is on hold (col. 4, lines 30 to 36). In Applicants' invention, as described above, a telephone is not used until an agent is available to receive a call. Therefore, the user is not placed on hold and the user's phone is not used while an agent is unavailable. The deficiencies of Barkan, as highlighted above and as recognized in the Office Action, are not overcome by Uppaluru.

The Barkan/Uppaluru combination, as recognized by the Examiner, fails to teach or disclose the reception of an unavailability reply. The Morganstein patent is relied upon for teaching the reception of unavailability replies as well as the estimation of time-in-queue values and preparation of call queue status messages. The call queue status of Applicants' invention (Specification, p. 13, l. 18 to p. 14, l. 3 and p. 14, l. 19 to p. 15, l. 3) includes not only an approximate wait time but also a caller's position in a queue for an agent's availability. Morganstein fails to teach or disclose information relating to a caller's position in a queue. The deficiencies of the Barkan/Uppaluru combination as highlighted above and recognized in the Office Action are not overcome by Morganstein.

At least for these reasons, it is believed that amended claim 1 is allowable over the teachings of Barkan, Uppaluru and Morganstein either taken alone or in combination.

Similarly, amended independent claim 13 is also allowable over the cited patents. The remaining claims, 2-5, 7-12, 14-16 and 18-27, depend on one of independent claims 1 and 13 and therefore are also allowable over the teachings of Barkan, Uppaluru and Morganstein either individually or in the combination suggested by the Examiner.

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All of the rejections being overcome, it is respectfully submitted that this application is in condition for allowance and a notice to that effect is earnestly solicited. Should the Examiner have any questions with respect to expediting the prosecution of this application, he is urged to contact the undersigned at the number listed below.

The Commissioner is authorized to charge the necessary fees to Deposit Account No. 50-2476.

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**Attachment Showing Claim Amendments**

Claims 1, 7-9, 13 and 18-20 have been amended as follows:

1. (Amended) A method of setting up a call between a subscriber premises and a call center, comprising:  
receiving a call set up request from a gateway responsive to the subscriber premises, said gateway being connected to the subscriber premises via a data network;  
sending a query to the call center;  
[receiving an availability reply from the call center; and]  
preparing a call set up instruction for setting up the call between the subscriber premises and the call center if an availability reply is received from the call center; and  
estimating a time-in-queue for the call center to be available to receive the call and preparing a call queue status message for delivery to the gateway if an unavailability reply is received before the availability reply is received from the call center.
7. (Amended) The method of claim 1 [6], further comprising sending the call queue status message to the gateway for delivery to the subscriber premises.
8. (Amended) The method of claim 1 [6], further comprising:  
receiving an agent available reply [notice] from the call center; and  
preparing an updated call queue status message for delivery to the gateway.

9. (Amended) The method of claim 1 [6], further comprising preparing an updated call queue status message for delivery to the gateway after receiving the availability reply.

13. (Amended) An apparatus for setting up a call between a subscriber premises and a call center, comprising:

means for receiving a call set up request from a gateway responsive to the subscriber premises, said gateway being connected to the subscriber premises via a data network;

means for sending a query to the call center;

means for receiving [an availability] a reply from the call center; [and]

means for preparing a call set up instruction for setting up the call between the subscriber premises and the call center if an availability reply is received from the call center; and

means for estimating a time-in-queue for the call center to be available to receive the call and means for preparing a call queue status message for delivery to the gateway if an unavailability reply is received before the availability reply is received from the call center.

18. (Amended) The apparatus of claim 13 [17], further comprising means for sending the call queue status message to the gateway for delivery to the subscriber

premises.

19. (Amended) The apparatus of claim 13 [17], further comprising:  
means for receiving an agent available reply [notice] from the call center, and  
means for preparing an updated call queue status message for delivery to the  
gateway.
20. (Amended) The apparatus of claim 13 [17], further comprising means for  
preparing an updated call queue status message for delivery to the gateway after  
receiving the availability reply.

Claims 6 and 17 have been canceled.

Claims 24 - 27 have been added as follows:

24. (New) The method of claim 1, wherein the data network is the Internet.
25. (New) The method of claim 1, further comprising:  
utilizing a telephone at the subscriber premises for enabling communication  
between a user at the subscriber premises and an available agent at the call center.

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26. (New) The apparatus of claim 13, wherein the data network is the Internet.
  
27. (New) The apparatus of claim 13, further comprising:  
a telephone at the subscriber premises for enabling communication between a user  
at the subscriber premises and an available agent at the call center.